BLAKE A. FIELD
3750 Doris Place
Las Vegas, Nevada 89120
(702) 436-9798
Pro Se Plaintiff

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2004 MAY 25 P 2: 11

CLERK US DISTRICT COURT
DISTRICT OF NEVADA

BY__________DEPUTY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

BLAKE A. FIELD,

Plaintiff,

vs.

GOOGLE, INC., a corporation

Defendant.

Case No. CV-S-04-0413-RCJ-LRL

FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT

JURY DEMAND

COMES NOW Plaintiff Blake A. Field to file his first amended complaint in the above entitled matter, in accordance with Rule 15(a) of the Federal Rules of Civil Procedure. To that end, Plaintiff alleges and complains of the Defendant as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Law of the United States (17 U.S.C. §§ 101 *et seq.*).

2. This Court has jurisdiction of this action under 17 U.S.C. §§ 101 *et seq.* and 28 U.S.C. §§ 1338(a) and (b).

3. This Court has personal jurisdiction over Defendant in that Defendant's contacts with this District are wide ranging and of a continuous and systematic nature and, in any event, Defendant has purposefully availed itself of the privilege of conducting activities in the State of Nevada in this instance by (1) reproducing copyrighted material from an internet server situated in Nevada, by (2) distributing copies of the copyrighted material in Nevada and by (3) engaging in intentional action expressly aimed at this forum which caused harm that the Defendant knew or should have known would likely be suffered in Nevada.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

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PARTIES

5. Plaintiff, Blake A. Field, is a citizen of the United States and holds domicile in the city of Las Vegas, Nevada.

6. Defendant, Google, Inc., is a for-profit corporation organized under the laws of the State of California. Defendant maintains its principle place of business in the city of Mountain View, California.

PLAINTIFF'S COPYRIGHTED WORKS

7. Plaintiff is the sole owner of the registered copyrights in 51 original literary works ("the works"). Those registrations have an effective date of January 16, 2004. A listing of the works and their respective registration numbers is attached hereto as Exhibit A.

DEFENDANT'S ACCESS TO THE COPYRIGHTED WORK

8. After duly registering the copyrights in his works, Plaintiff published the works to his website, located on the internet at http://www.blakeswritings.com.

9. Each and every copy of Plaintiff's works published to www.blakeswritings.com bears clear notice of Plaintiff's copyright in the form of "© 2004 Blake A. Field."

10. The copies of the works published to Plaintiff's website are now and always have viewable by members of the public.

THE GOOGLE CACHE

11. Defendant operates and maintains as part of its popular internet search engine a feature it refers to as Google's cache.

12. Google's cache consists of third-party web page content copied to and stored upon servers owned and operated by Defendant. This third-party web page content is, at the impetus of Google users, reproduced and publicly distributed to Google users.

13. When a user of Defendant's internet search runs a query on its search system, Defendant displays for that user a list of links to pertinent web pages that match the user's search terms. If a web page that is linked from the search result has been copied into Google's cache, Defendant also displays a link in its search results for the user to access Google's cache of the

linked web page.

14. When an individual views particular third-party web page content stored in the Google cache, that person is actually viewing a copy of that content made by Defendant and distributed by Defendant to that individual's web browser. In other words, Google has distributed to that individual a copy of Google's cache copy.

15. Every web page reproduced from the copy stored in Google's cache and distributed by Defendant includes a notice that "This is Google's cache of [web page address]. Google's cache is the snapshot that we took of the page as we crawled the web."

16. Defendant does not seek authorization from copyright owners prior to reproducing and publicly distributing works stored in Google's cache.

17. Google's cache offers Defendant a competitive advantage over other internet search engines that do not offer their users a cache copy of third-party web page content.

18. Defendant has copied copyright protected content from millions of web pages to the Google cache and each day makes and publicly distributes copies of that content to users of Google's cache.

19. Third-party web page content is added to the Google cache by an automated software process.

20. Third-party web page content added to the Google cache is done so without regard to any copyright notices that may be affixed to that content.

21. The Google cache enables Google users to view web sites that may no longer be available on the web site's original server.

22. The Google cache enables Google users to view web sites that have been intentionally removed or deleted by the site's author.

23. Defendant reproduces and publicly distributes third-party web page content to members of the public who use the Google cache, without regard to the identities of those users.

24. The Google cache is a free service for its users, and one need not register or become a member of any service offered by Defendant in order to access the Google cache.

25. Google's cache is not a cache of the type outlined in 17 U.S.C. § 512(b).

DEFENDANT'S ACTS OF INFRINGEMENT

26. Until it received notice of the original Complaint in this action, Defendant maintained exact copies of each of Plaintiff's works in the Google cache, despite the clear notice of Plaintiff's copyright affixed to each of the works.

27. Until it received notice of the original Complaint in this action, Defendant, by operation of the Google cache, offered copies of Plaintiff's for distribution to the public.

28. Until it received notice of the original Complaint in this action, Defendant created exact copies of each of Plaintiff's works and distributed those copies to anyone who directed his or her web browser to the appropriate Google cache web addresses. For example, any member of the public who directed his or her web browser to the following web address:

http://www.google.com/search?q=cache:5OPIRwcGcCEJ:www.blakeswritings.com/GoodTea.html+&hl=en&ie=UTF-8

would have distributed to them an exact reproduction of Google's cache copy of Plaintiff's work *Good Tea.*

29. Defendant has on several occasions created copies and distributed those copies of each of Plaintiff's works to users of Google's cache. A true and correct printout of a representative example of one such instance of Defendant's unauthorized reproduction and distribution of one of Plaintiff's works is attached hereto as Exhibit B. Exhibit B shows that on March 23, 2004 Defendant reproduced verbatim Plaintiff's work entitled *Good Tea* and distributed that reproduction to a member of the public. In a similar fashion to the *Good Tea* example, Defendant has without authorization reproduced and publicly distributed each of Plaintiff's works.

30. Defendant's offering of copies of Plaintiff's works to the public via the Google cache violates Plaintiff's exclusive right to publicly distribute his works.

31. Defendant's reproduction of its cache copies of Plaintiff's works violates Plaintiff's exclusive right to reproduce his works.

32. Defendant's public distribution of copies of Plaintiff's works created from the Google cache violates Plaintiff's exclusive right to publicly distribute his works.

33. All of the infringing acts of Defendant occurred after January 16, 2004, the effective registration date for all of Plaintiff's works.

34. At no time has Plaintiff authorized the Defendant to reproduce, adapt, distribute, perform, publish or display any of Plaintiff's works.

35. The acts of infringement by Defendant have been willful, intentional, purposeful, and in reckless disregard of and indifference to the rights of Plaintiff.

36. Defendant's reproduction and public distribution of Plaintiff's works were not done for purposes of comment, criticism, parody or education.

37. Defendant's acts of reproducing and distributing Plaintiff's works do not constitute a fair use of the works.

38. Defendant had knowledge that there were serious copyright infringement issues with Google's cache, yet made a business decision to continue operating the Google cache as a copyright infringement machine, anyway.

39. By reason of Defendant's infringement, Plaintiff has sustained and will continue to sustain substantial injury, loss and damage to his rights in the works.

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WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. That Defendant, its agents, servants, successors-in-interest and assigns be enjoined during the pendency of this action and permanently thereafter from infringing upon Plaintiff's exclusive rights in his works.

2. For statutory damages in the amount of not less than $50,000 with respect to each copyrighted work infringed.

3. For Plaintiff's costs and fees associated with this action, as permitted by law.

4. For such other and further relief as the Court deems just and proper.

DATED this 25 day of May, 2004.

BLAKE A. FIELD
3750 Doris Place
Las Vegas, Nevada 89120
(702) 436-9798
Pro Se Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED this 25 day of May, 2004

BLAKE A. FIELD
3750 Doris Place
Las Vegas, Nevada 89120
(702) 436-9798
Pro Se Plaintiff

CERTIFICATE OF SERVICE

This is to certify that I have served the foregoing First Amended Complaint, by depositing on this date the same with the U.S. Postal Service, first class postage prepaid to David H. Kramer, Esquire, of the law firm of Wilson Sonsini Goodrich & Rosati located at 650 Page Mill Road, Palo Alto, CA 94304-1050., and to Kelly A. Evans, Esquire, of the law firm of Snell & Wilmer, L.L.P., located at 3800 Howard Hughes Parkway Suite 1000, Las Vegas, NV 89109, the attorneys of record for Defendant Google, Inc.

Dated May 25, 2004.

Blake A. Field
Pro Se Plaintiff
3750 Doris Place
Las Vegas, NV 89120
(702) 436-9798

EXHIBIT A

Name of Work	**Registration Number**
1. Left Foot	TXu1-151-182
2. Band T-Shirt	TXu1-151-183
3. Lotions	TXu1-151-184
4. The Dishwasher	TXu1-151-185
5. Filthy Comforter	TXu1-151-186
6. Fires Doughnuts	TXu1-151-187
7. Good Burritos	TXu1-151-188
8. Room Cleaning	TXu1-151-189
9. Eyedrops	TXu1-151-190
10. Heater Hose	TXu1-151-191
11. Two Flashlights	TXu1-151-192
12. The Van	TXu1-151-193
13. I Blame Anne Murray	TXu1-151-169
14. Dented Mercedes	TXu1-151-170
15. Crossing Guard	TXu1-151-171
16. Bass Slide	TXu1-151-172
17. Rusty Knives	TXu1-151-173
18. Strawberry Shampoo	TXu1-151-174
19. Sunglasses	TXu1-151-175
20. Box of Macaroni	TXu1-151-176
21. Hiking Today	TXu1-151-177

22. Cribbage	TXu1-151-178
23. Sports Commentators	TXu1-151-179
24. Oil Change	TXu1-151-180
25. Online Drips	TXu1-151-181
26. Antiperspirant	TXu1-155-585
27. The Big Cup	TXu1-155-584
28. The Humidifier	TXu1-155-583
29. Write Something Nice	TXu1-155-582
30. The Doorknob	TXu1-155-581
31. Which Cola Do You Like?	TXu1-155-580
32. Winter Died	TXu1-155-579
33. Ink Cartridge	TXu1-155-578
34. Styx Dancing	TXu1-155-577
35. Chewing Gum	TXu1-155-576
36. Used Bed	TXu1-155-575
37. The Scooter	TXu1-155-574
38. The Motorcycle	TXu1-155-573
39. Drive! Drive! Drive!	TXu1-155-572
40. The Alarm Clock	TXu1-155-571
41. Good Tea	TXu1-130-900
42. The Pick	TXu1-155-570
43. The Ceiling Fan	TXu1-155-569

44. Broken Headphones	TXu1-155-568
45. Dogbait	TXu1-155-567
46. The Smoke Detector	TXu1-155-586
47. Every Christmas	TXu1-155-565
48. To Do Without You?	TXu1-155-564
49. The Alarm Next Door	TXu1-155-563
50. Stop Whistling	TXu1-155-562
51. The Door Patch	TXu1-155-561

EXHIBIT B

This is **G o o g l e**'s cache of http://www.blakeswritings.com/GoodTea.html.
G o o g l e's cache is the snapshot that we took of the page as we crawled the web.
The page may have changed since that time. Click here for the current page without highlighting.
To link to or bookmark this page, use the following url `http://www.google.com/search?q=cache:5OPIRwcGcCEJ:www.blakeswritings.com/GoodTea.html+&hl=en&ie=UTF-8`

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Help defeat the purple man.
www.blakeswritings.com

Good Tea
By: Blake A. Field
© 2004 Blake A. Field

It's truly a rare find, a good tea. Most of the tea one can buy in the supermarkets have been run through so many mills and processes and sample groups that by the time you steep it, it's lost all of its tea character.

Tea is about simplicity. Simple flavors, simple aromas, simple preparation. It seems that somewhere we got away from the notion of simplicity as it relates to tea. Many of us must have it iced, some of us take it hot and combined with milk, and others are not satisfied unless they know that only the rarest of spices and ingredients are contained therein.

With that in mind, it is with the utmost joy that I can announce to you, the reader, that I've found a truly good tea. It's delicate and spicy, with a piquant aroma and a mellow, rewarding aftertaste. I'm such a fan that I've purchased a special electric hot pot which keeps the water at just the right temperature so that at any moment the urge strikes me, I can go and pour myself a cup of tea.

Like I've said before, this is a really, really good tea. So I'm pouring and steeping like its my job, as it seems there is never enough to satiate my need to taste this exotic blend. Sometimes I get so excited about the tea that I forget that it's scalding hot, and I burn my tongue and mouth badly with the liquid I so desperately need.

If I have to burn myself severely to get the tea that I need into my person, so be it. I'm willing to make that sacrifice, if it means being able to enjoy another taste of this delicious, seemingly intoxicating beverage.

I think that I'm going to write a letter to the company informing them of my love for their product and thanking them dearly for its manufacture. Maybe if I sound off about it loudly enough they'll send me a free sample. Then I can have more tea.

[Home] [Links] [E-Mail]